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[Salt Lake City]

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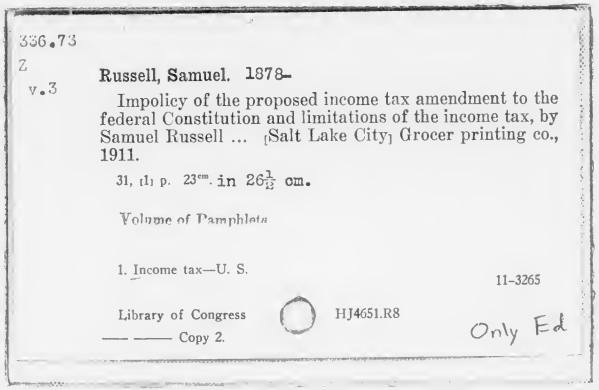

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IMPOLICY

OF THE

PROPOSED INCOME TAX AMENDMENT

TO THE

FEDERAL CONSTITUTION

AND

LIMITATIONS OF THE INCOME TAX

BY

SAMUEL RUSSELL

OF

SALT LAKE CITY,
UTAH

"Every difference of opinion is not a difference of principle. We are called by different names—brethren of the same principle. We are all Republicans—we are Federalists * * * Let us then with courage and confidence pursue our own federal and republican principles—our attachment to our Union and representative government."

* * * *

"The constitution to which we are all attached was meant to be republican, and we believe to be republican according to every candid interpretation."

* * * *

"The party called Republican is steadily for the support of the present constitution. They obtained at its commencement all the amendments they desired."

THOMAS JEFFERSON.

GROCER PRINTING CO.
January 1911

IMPOLICY OF THE PROPOSED INCOME TAX AMENDMENT

By joint resolution of July 5th, 1909, the Congress of the United States submitted to the Legislatures of the several states a proposed amendment to the Federal Constitution by the terms of which the Congress shall have power to lay a direct income tax, without regard to the rule of apportionment of the Constitution, which forbids Congress to lay any capitation or other direct tax unless in proportion to the census. The text of the proposed amendment follows:

Article 16. "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."

The clauses which this proposed amendment effectively repeals are:

Article 1, Sec. 2. "Representatives and direct taxes shall be apportioned among the several states which may be included within this Union according to their respective numbers, etc."

Article 1, Sec. 9. "No capitation or other direct tax shall be laid unless in proportion to the census hereinbefore directed to be taken."

The old Constitution invests Congress with plenary power of taxation. Article 1, Section 8, provides: "The Congress shall have power to lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States."

It is a matter of general knowledge that the tremendous revenues of the United States which have proven adequate for every national need or exigency are and have been raised quite exclusively from the impost or duties on imports and excises or duties on consumption. The first of these is known as the customs tariff and the latter as internal revenue. Congress has not levied, with rare and minor exceptions, any direct tax on property or persons within the States.

The proposed amendment will necessarily cause not only a fundamental change in the organic law of the republic, but will also radically alter the settled policy and practice of the federal and state governments with respect to the division of the revenue essential to the administration of the public functions respectively committed to each. The question of policy involved in the proposed amendment as the matter is now presented to the legislatures of the several states, seems to have received but scant examination and attention, altogether insufficient to insure that deliberate judgment by the people and their representatives, without which it is highly impolitic to introduce any such changes into the fundamental law.

History of Income Tax Legislation.

Grover Cleveland in his message to Congress, December 4, 1893, referred to the proposed bill for the revision and equalization of the tariff and said: "The Committee have wisely embraced in their plan a few additional internal revenue taxes, including a small tax upon incomes derived from certain corporate investments."

This Congress did not enact the **corporation income tax** as recommended by the President, but in violation of the federal Constitution laid a general capitation tax upon all citizens of the United States and persons residing therein, determined according to their several net incomes for the previous year over and above the sum of Four Thousand Dollars. The language of the act follows:

"There shall be assessed, levied, collected and paid annually upon the gains, profits, and income received in the preceding calendar year, by every citizen of the United States, whether residing at home or abroad, and every person residing therein, whether said gains, profits or incomes be derived from any kind of property, rents, interest, dividends or salaries or from any profession, trade, employment or vocation carried on in the United States or elsewhere or from any other source whatsoever, a tax of two per centum of the amount so derived over and above four thousand dollars."

Direct and Indirect Taxes.

The act became a law without the signature of President Cleveland, on August 24, 1894. It provoked intense controversy as to the meaning of capitation and other direct taxes as these words were used in the Constitution. The gratuitous opinions of subsequent commentators on the Constitution as to the definition of these terms have proven to be of little value. The highest contemporary authority as to the nature of these taxes, and the only one who speaks with any clarity on the subject, is Adam Smith. His work on the Wealth of Nations was published in 1776. His definition of capitation taxes precisely fits the personal income tax embodied in the act of 1894:

"The taxes which it is intended should fall indifferently upon every different species of revenue are **capitation taxes** and taxes upon consumable commodities. **These must be paid indifferently from whatever revenue the contributors may possess; from the rent of their land, from the profits of their stocks or from the wages of their labor. Capitation** taxes, if it is attempted to **proportion them to the fortune or revenue** of each contributor, become altogether arbitrary. The state of a man's fortune varies from day to day, **and without an inquisition more intolerable than any tax and renewed at least once every year,** can only be guessed at. * * * Capitation taxes, if they are proportioned not to the supposed fortune, but to the rank of each contributor, become altogether unequal, the degree of fortune being frequently unequal in the same degree of rank. Several of those who in the first poll tax were rated according to their supposed fortune were afterwards rated according to their rank. Sargeants, attorneys and proctors at law who in the first poll tax were assessed at three shillings in the pound of their supposed income were afterwards assessed as gentlemen. * * * Capitation taxes so far as they are levied upon the lower ranks of the people, are **direct taxes on the wages of labor** and are attended with all the inconveniences of such taxes. **The impossibility of taxing the people in proportion to their revenue by any capitation,** seems to have given occasion to the invention of taxes upon consumable commodities. The state not knowing how to tax, **directly** and proportionately, the revenue of its subjects, endeavors to tax it **indirectly** by taxing their expense. * * * by taxing the consumable commodities upon which it is laid out."

Notwithstanding the subtlety so persistently exercised by some lawyers to distinguish the income tax from taxes on property, persons, or consumption, the truth is that all taxes are in their nature income taxes. Capitation taxes are direct income taxes. Consumption taxes are indirect income taxes. Taxes which are not based upon the revenue or income of the property or the profits of capital or the wages of persons taxed, are in principle confiscatory and a deprivation of property without due process of law. The government may take of the rents, issues and profits of land in taxation—when it takes the land itself, it must make compensation.

Speaking of direct property taxes Adam Smith said:

"While **property** remains in the possession of the same person, **whatever permanent taxes may have been imposed upon it, they have never been intended to diminish or take away any part of the capital value, but only some part of the revenue arising from it."**

Direct taxes are those which fall directly on the revenue or income of the property or person taxed, indirect taxes are those which fall indirectly upon the revenue of the persons by being laid upon their expense. Taxes laid upon the total revenue of a person are direct taxes upon that person—they are, by definition, capitation taxes. To lay taxes upon property upon an ad valorem or capital basis differs only in method from laying upon a revenue basis. The latter may be the more equitable method, and while it would be eminently proper to reform our systems of direct taxation (which are in this country quite exclusively state taxes) upon such equitable lines as are suggested by the principle of income taxation, it must not be forgotten that to lay an ad valorem and an income tax upon the same subject of taxation, is double taxation of the most flagrant kind.

Jefferson's Classification.

As was stated by Thomas Jefferson:

"The taxes with which we are familiar class themselves readily according to the basis on which they rest. 1. Capital. 2. Income. 3. Consumption. These may be considered as commensurate; Consumption being generally equal to Income and Income the annual profit of Capital. A government may select either of these bases for the establishment of its system of taxation, and so frame it as to reach the faculties of every member of the society, and to draw from him his equal proportion of the public contributions; and, if this be correctly obtained, it is the perfection of the function of taxation. But when once a government has assumed its basis, to select and tax special articles from either of the other classes, is double taxation. For example, if the system be established on the basis of Income, and his just proportion on that scale has been already drawn from every one, to step into the field of Consumption, and tax special articles in that, as broad-cloth or homespun, wine or whiskey, a coach or a wagon, is doubly taxing the same article. For that portion of Income with which these articles are purchased, having already paid its tax as Income, to pay another tax on the thing it purchased, it paying twice for the same thing; it is an aggrievance on the citizens who use these articles in exoneration of those who do not, contrary to the most sacred of the duties of a government, to do equal and impartial justice to all its citizens."

State and Federal Revenue.

Federal income taxes and consumption taxes cannot on any rational principle stand together. Now under our dual form of government the ordinary federal basis is **Consumption,** and the state basis **Capital.** This necessarily produces double taxation, but the federal taxes may readily be laid upon luxuries, so they are paid exclusively by the wealthy class who purchase goods imported from foreign countries, or who consume such articles of luxury as are now subject to the internal revenue excises. To add a federal income tax to these is not to only double, but treble taxation. The direct property tax in the states may readily be converted into a tax upon a revenue or income basis, but the federal government may not do this upon any fair or politic grounds without abandonment of the tariff and internal revenue which have developed and perfected by the experience of over a century of federal administration. The power of the federal government to lay taxes on Capital, Income or Consumption is plenary; however, the laying of capitation or property taxes based upon Capital or Income is rendered inconvenient by the Constitutional rule of apportion-

ment. It has, therefore, been seldom resorted to. The rule of apportionment is a salutary restraint upon the exercise of the direct taxing power of Congress, and the concrete question now before the States is whether or not they shall voluntarily remove the only barrier to prevent the federal government from entering upon a general scheme of direct internal taxation of a nature which will prove most odious to the American people, with its attendant inquisition into private and personal business and affairs, all of which is subversive of the personal liberty they so highly prize and the evils of which are more intolerable than a tariff on imports, protective or otherwise.

Decision of the Supreme Court.

The income tax provisions of the Act of 1894 were taken to the Supreme Court of the United States for adjudication as to their constitutionality. The cases involving the constitutionality of these taxes were argued twice to the court, and upon May 20th, 1895, the late Chief Justice Fuller, speaking for the court, rendered a notable constitutional decision, which places him with Marshall and Taney among the greatest of the Chief Justices of the United States. In deciding the case the court said:

"Our conclusions may therefore be summed up as follows:

First—We adhere to the opinion already announced, that taxes on real estate, being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes.

Second—We are of the opinion that taxes on personal property or on income of personal property are likewise direct taxes.

Third—The tax imposed by Sections Twenty-seven to thirty-seven, inclusive, of the Act of 1894, so far as it falls on the income of real estate and personal property, being a direct tax within the meaning of the Constitution and therefore unconstitutional and void, because not apportioned according to representation, all those sections constituting one entire scheme of taxation are necessarily invalid."

Reflecting the high sense of duty with which this great court has always approached the decision of constitutional and other questions, the Chief Justice said:

"Differences have often occurred in this court—differences exist now—but there has never been a time in its history when there has been a difference of opinion as to its duty to announce its deliberate conclusions unaffected by considerations not pertaining to the case in hand.

"If it be true that the Constitution should have been so framed that a tax of this kind could be laid, the instrument defines the way for its amendment. In no part of it was greater sagacity displayed. Except that no State, without its consent, can be deprived of its equal suffrage in the Senate, the Constitution may be amended upon the concurrence of two-thirds of both houses and the ratification of the Legislatures or conventions of the several States or through a federal convention when applied for by the Legislatures of two-thirds of the States and upon like ratification. The ultimate sovereignty may thus be called into play by a slow and deliberate process which gives time for mere hypothesis and opinion to exhaust themselves, and for the sober second thought of every part of the country to be asserted."

In explanation of the effect and limits of the decision, the Chief Justice further said:

"We have considered the act only in respect of the tax on income derived from real estate and from invested personal property, and have not commented on so much of it as bears on gains or profits from business, privileges, or employment in view of the instances in which taxation on business, privileges or employment, has assumed the guise of an excise tax and been sustained as such. * * *

"We do not mean to say that an act laying by apportionment a direct tax on all real estate and personal property, or the income thereof, might not also lay excise taxes on business, privileges, employments and vocations But this is not such an act, and the scheme must be considered as a whole. Being invalid as to the greater part, and falling, as the tax would, if any part were held valid, in a direction which could not have been contemplated except in connection with the taxation considered as an entirety, we are constrained to conclude that sections twenty-seven to thirty-seven inclusive of the act which became a law without the signature of the President on August 28, 1894, are wholly inoperative and void."

The controversy over the definition of direct taxes has been directed mainly to the question as to whether or not taxes on personal property were direct taxes. It is admitted by all that taxes on land or the rent, issues and profits of land are direct taxes—also that capitation or poll taxes are direct taxes. Much of this discussion both in Congress and the courts has dealt with the Hylton case decided by the Supreme Court at the February term, 1796, in which it was held that an annual tax on carriages was a tax on Consumption or expense, and not a direct tax on Income. The judges were all agreed, but gave their opinions seriatim, as was the custom in those days. Mr. Justice Chase said:

"It seems to me, that a tax on expense is an indirect tax; and I think an annual tax on a carriage for the conveyance of persons, is of that kind; because a carriage is a consumable commodity, and such annual tax on it is on the expense of the owner."

This was in accord with the description given by Adam Smith of taxes on Consumable Commodities. He said:

"Consumable Commodities, whether necessaries or luxuries, may be taxed in two different ways. The consumer may either pay an annual sum on account of his using or consuming goods of a certain kind; or the goods may be taxed while they remain in the hands of the dealer, and before they are delivered to the consumer. The consumable goods which last a considerable time before they are consumed altogether are most properly taxed in the one way. Those of which the consumption is either immediate or more speedy in the other. The coach tax and plate tax are examples of the former method of imposing; the greater part of the other duties of excise and customs, of the latter."

Now it has been sought to deduce from this case, the doctrine that all taxes on personal property, including the income from investments, are indirect taxes, but the Supreme Court in the Pollock case restricted the Hylton case to the point actually decided, that a carriage is a consumable commodity, and that a tax on the same is a tax on expense, and refused to extend the effect of the decision to include invested personal property producing an interest or income. Such personal property is obviously not an article of consumption.

For example: Suppose a person having $100 deposited in a savings bank, the annual interest of which is four dollars, expends this four dollars for tobacco for his own consumption. The federal government lays an excise on tobacco, and this tax falls indirectly on the income from the $100. Then suppose Congress lay a poll tax on every person in the country, assessing each one according to his income from all sources. Such a tax would fall directly on the income from the hundred dollars. Then comes the State and lays a direct tax on the hundred dollars as capital. This falls directly on the income from the hundred dollars. Here we have treble taxation. The Consumption tax is indirect; the Federal capitation tax and the State capital tax are direct—and the hundred dollars is personal property, but not an article of consumption.

Origin of the Proposed Amendment.

The Supreme Court thus settled the constitutional and legal point, and the question is now presented to the State Legislatures as one of Federal and State policy. No State has memorialized Congress that such an amendment be submitted. The proposition did not originate in the House of Representatives, the popular house of Congress, but certain men in and out of Congress, who were piqued at the plain and straight-forward reasoning of the Supreme Court, have kept up an incessent agitation on the question and have insisted that the decision was wrong. When Congress met in special session to revise the tariff, the bill as reported by the Ways and Means Committee and as it passed the House, contained no provision for an income tax. The House, under the Constitution, has the exclusive right to originate revenue bills. When the House bill came to the Senate, it developed that a number of senators, led by a senator who had been most persistent in his criticism of the decision of the Supreme Court, would likely be able to re-enact the income tax law of 1894 in the very face of the decision of the Supreme Court. It was their determined purpose to do so, although it involved an audacious challenge and affront to that great tribunal and would precipitate an unseemly conflict between two co-ordinate branches of the Federal Government. To avert such a disturbing issue, certain senators, prominent among whom was Elihu Root of New York, with the co-operation of the President, succeeded in passing the corporation tax law which the President had recommended, and the matter of the general income tax was compromised in the resolution to submit the proposed amendment, the purpose of which is to abrogate the Constitutional provisions which require the apportionment of direct taxes among the States, by the same rule which governs the apportionment of representatives in Congress.

President Taft's Views.

Referring to the agitation for the amendment of the Constitution, William H. Taft, at Cincinnati, on July 28, 1908, had said:

"In my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax, when the protective system of customs and the internal revenue tax shall not furnish income enough for the governmental needs, can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution."

Senator Root's Argument.

During the course of the debate on the corporation tax in the United States Senate, on July 1, 1909, Senator Elihu Root quoted this statement of the President and said:

"I agree with the Judgment of the President * * * I am for the corporation tax because I think it is better policy, better patriotism, higher wisdom than the general income tax. * * *

"It has so happened that in the development of the business of the United States, the natural laws of trade have been making the distinction for us, and they have put the greater part of the accumulated wealth of the country into the hands of corporations so that when we tax them we are imposing the tax upon the accumulated income and relieving the earnings of the men who are gaining a subsistence for their old age and for their families after them. * * *

"The corporation tax saves all of the income tax that is constitutional and can be enforced. It avoids the evils of the income tax provision; it avoids drawing the Supreme Court of the United States through the mire and brambles of political controversy; it avoids the possibility of creating in the eyes of the world, a conflict between the two branches of our government; it avoids the injustice of imposing the same duty upon the toiler

who is earning and laying up the capital for his future years, and upon the possessor of accumulated wealth. I assert, sirs, that the income tax, as it stands, is unwise, unjust, unconstitutional—I assert that the corporation tax provision is constitutional, is just and is wise; that it is adapted to the purpose for which it is designed; that it is free from the objections that gather round the broader measure. * * *

"By the simple course of dropping out from this income tax measure the parts that are unconstitutional under the decision of the Supreme Court, that are unjust according to the acknowledged judgment of all students of the income tax * * * and by saving the tax upon the stored up wealth of the country invested in corporations, called an 'excise,' we shall have accomplished the great object of the income tax. * * *

"I do not wish to place in the hands of the United States the material for absorbing the functions of the States. I cherish as fondly the sovereign powers of the States as I do the sovereign powers of the United States. I believe this country is too great, its people too numerous, its interests too diversified to be ruled in all its local affairs from one central government at Washington, and while I stand for the full extent, the full vigor, the ever undiminished power of the National Government, I should not abate one hair's breadth from those powers of the States that were established when our fathers drew the line between the two sides of our dual government."

Representation and Taxation.

No provisions of the Constitution were more unanimously insisted upon than those which it is now sought to abrogate. It is by reason of these that the heavy hand of Federal taxation has not been directly laid upon persons and property within the States. They were the direct outgrowth of the principles upon which the Revolutionary war was fought, and their repeal involves an abandonment of the best traditions of the American people.

Referring to the reciprocal relation between representation and taxation which was written into the very ground-work of the Constitution, Chief Justice John Marshall said in the Virginia convention of 1829:

"I think the soundest principles of republicanism do sanction some relation between representation and taxation. Certainly no opinion has received the sanction of wiser statesmen and patriots. I think the two ought to be connected. I think this was the principle of the Revolution—the ground on which the Colonies were torn from the mother country and made independent States."

Not only did the Constitution require that direct taxes, like representation, should be distributed among the States by apportionment, but it went further and expressly forbade Congress to lay any capitation or other direct tax by any other rule. The purpose of this was not only to preserve the representative principle, but also to have the ordinary Federal revenues raised exclusively from duties, imposts and excises which were required only to be uniform throughout the United States and to have Congress reserve the direct taxing power to times of great national exigency and necessity. Notwithstanding all this, we have the spectacle today of persistent effort to resort to these direct taxes in time of profound peace, with Federal revenues producing a surplus and the credit of the National Government unlimited.

It was the generally understood opinion of the men who framed the Constitution and adopted it, that the direct taxing power should not be resorted to except in cases of war or grave public crises or exigencies. There is ample evidence of this in the debates in the State conventions, but the formal resolutions of the States are sufficient to show the policy that was determined upon.

States Against Direct Tax.

Judge Dana, in the Massachusetts convention, speaking of direct taxes, said:

"It is not to be supposed that they (the Congress) would levy such unless the impost and excise should be found insufficient in case of war."

Luther Martin, in his report to the Legislature of Maryland, said:

"Direct taxation should not be used but in cases of absolute necessity, and then the States will be the best judges of the mode."

Chancellor Livingston, Roger Sherman, Oliver Ellsworth, Messrs. Sedgwick, Gore, Pierce and others might be quoted to the same effect.

The convention of Massachusetts which ratified the Federal Constitution, recommended this amendment:

"4ly. That Congress do not lay direct taxes, but when the moneys arising from the impost and excise are insufficient for the public exigencies, nor then, until Congress shall have first made a requisition upon the States to assess, levy and pay their respective proportion of such requisition according to the census fixed in said Constitution in such way and manner as the Legislatures of the States shall think best and in such case if any State shall refuse or neglect to pay its proportion pursuant to such requisition, then Congress may assess and levy such State's proportion, together with interest thereon, at the rate of six per cent. per annum from the time of payment described in such requisitions."

This amendment was accepted by the States of New York, New Hampshire, South Carolina and Rhode Island.

The convention of New York on July 19, 1788, resolved:

"That Congress shall not lay direct taxes within this State, but when moneys arising from the impost and excise shall be insufficient for the public exigencies; nor then until Congress shall first have made the requisition upon this State to assess, levy and pay the amount of such requisition, made agreeably to the census fixed in said Constitution, in such way and manner as the Legislature of this State judge best; but in such case if the State shall neglect or refuse to pay its proportion pursuant to such requisition, then the Congress may assess and levy this State's proportion, together with interest at the rate of six per centum per annum, from the time at which the same was required to be paid."

The convention of Pennsylvania, sitting at Harrisburg on September 3, 1788, proposed the following amendment:

"That when Congress shall require supplies which are to be raised by direct taxes, they shall demand from the several States, their respective quotas thereof, giving a reasonable time to each State to procure and pay the same, and if any State shall refuse, neglect or omit to raise and pay the same within such limited time, then Congress shall have power to assess, levy and collect the quota of such State together with interest for the same from the time of such delinquency, upon the inhabitants and estates therein, in such manner as they shall by law direct, provided that no poll tax be imposed."

The convention of Virginia on June 26, 1788, resolved:

"When Congress shall lay direct taxes or excises they shall immediately inform the executive power of each State of the quota of such State according to the census herein directed, which is proposed to be thereby raised, and if the Legislature of any State shall pass a law which shall be effectual for raising such quota at the time required by Congress the taxes and excises laid by Congress shall not be collected in such State."

The convention of New Hampshire used this language:

"Direct taxes should be only laid when monies arising from imposts, excises and from other resources are insufficient for the public exigencies."

In South Carolina it was said:

"That the direct tax should only be imposed when the moneys arising from duties, imposts and excises were insufficient."

Hamilton's Scheme of Taxation.

In strict conformity with this policy, Alexander Hamilton, the first Secretary of the Treasury, organized the fiscal system of the United States upon the basis of imposts, excises and duties. The system has been so eminently successful, is founded upon such sound federal policy, is so intimately related to the power of Congress to regulate foreign trade, that any attempt to abandon it for any system of direct internal taxation of persons or property within the States should be met with determined resistence.

Alexander Hamilton, referring to taxes on consumption in one of his celebrated reports to Congress, said:

"The ingenious but fallacious hypothesis, that all taxes on consumption fall finally with accummulated weight on land, is now too generally and too satisfactorily exploded to require to be combatted here. It has become an acknowledged truth that, in the operation of those taxes, every species of capital and industry contribute their proportion to the revenue and consequently that so far as they can be made substitutes for taxes on lands, they serve to exempt them from an undue share of the public burthen."

John Marshall in his "Life of Washington," reviewing the debates in Congress, observed:

"Neither would a direct tax be advisable. **The experience of the world has proved, that a tax on consumption was less oppressive and more productive, than a tax on property or income.** Without discussing the principles on which the fact was founded, the fact itself was incontestible, that, by insensible means, much larger sums might be drawn from any class of men, than could be extracted from them by open and direct taxes. To the latter system there were still other objections. The difficulty of carrying it into operation, no census having been yet taken, would not be inconsiderable; and the expense of collection through a country so thinly settled, would be enormous. Add to this, that public opinion was believed to be more decidedly and unequivocably opposed to it, than to a duty on ardent spirits. North Carolina had expressed her hostility to the one as well as the other, and several other states were known to disapprove of direct taxes. From the real objection which existed against them and for other reasons suggested in the report of the secretary, they ought, it was said, to remain untouched as a resource when some great emergency should require an exertion of all the faculties of the United States."
sect finds its doctrines in the Savior of Mankind."

Jefferson Approves Tariff.

In 1790 when Jefferson was Secretary of State and Hamilton was Secretary of the Treasury, Jefferson wrote:

"The powers of the government for the collection of taxes are found to be perfect so far as they have been tried. They have been as yet only by duties on consumption, as these fall principally on the rich. There is a general desire to make them contribute the whole money we want, if possible."

Jefferson in the course of his correspondence repeatedly approved the system of raising federal revenue from imposts and duties on imports, and he has frequently condemned the direct tax and the principle of the direct tax.

When Jefferson was entering on his second term as President, he said in his inaugural address:

"The revenue on the consumption of foreign articles is paid cheerfully by those who can afford to add foreign luxury to domestic comforts, being collected at our seaboards and frontiers only and incorporated with the transactions of our mercantile citizens, it may be the pleasure and pride of an American, to ask what farmer, what merchant, what laborer ever sees a tax gatherer of the United States? * * *

"The suppression of unnecessary offices, of useless establishments

and expenses enabled us to discontinue our internal taxes. The covering of our land with officers and opening our doors to their intrusions had already begun, that process of domiciliary vexation, which, once entered, is scarcely to be restrained from reaching successively every article of produce and property."

On April 15th, 1811, after Jefferson had retired to Monticello, he wrote:

"We are all the more reconciled to the tax on importations because it falls exclusively on the rich. * * * In fact, the poor man in this country who uses nothing but what is made within his own farm or family, or within the United States, pays not a farthing of tax to the general government. * * * Our revenues, once liberated by the discharge of the public debt and its surplus applied to canals, roads, schools, etc., the farmer will see his government supported, his children educated and all the face of his country made a paradise by the contributions of the rich alone, without his being called upon to spare a cent from his earnings. The path we are now pursuing leads directly to this end, which we cannot fail to attain unless our administration should fall into unwise hands."

Referring to duties on importations, Albert Gallatin, Secretary of the Treasury in Jefferson's cabinet, said:

"Without resorting to the example of other nations, experience has proven that this source of revenue is in the United States, the most productive, the easiest to collect and the least burdensome to the great mass of the people."

Stephen A. Douglas, on January 2nd, 1854, wrote to the Governor of Illinois:

"The whole volume of revenue which now fills and overflows the national treasury, with the exception of the small item resulting from the sales of public land, is derived from a system of taxes imposed upon commerce and collected through the machinery of the custom houses."

President Grover Cleveland, on December 6, 1886, said in his second annual message to Congress:

"It has been the policy of the government to collect the principal part of its revenues by a tax upon imports, and no change in this policy is desirable."

Jefferson and the Constitution.

Jefferson, though not present in the United States at the time the Constitution was submitted to the State conventions, favored its ratification. His policy was to administer the Constitution upon republican principles, and he lived to see his policies receive general approbation by the people. Whigs and Democrats alike professed his doctrines.

The official call for the first national convention of the present republican party, which assembled at Philadelphia on July 17, 1856, invited all citizens to participate who were infavor of "restoring the action of the federal government to the principles of Washington and Jefferson."

The late Senator George F. Hoar of Massachusetts said of Jefferson:

"If we want a sure proof of Thomas Jefferson's greatness, it will be in the fact that men of every variety of political opinion, however far asunder, find confirmation of their doctrine in him. Every party in this country today reckons Jefferson as its patron saint. * * * Every political sect finds its political doctrines in Jefferson almost as every religious sect finds its doctrines in the Sevior of Mankind."

Jefferson favored the amendment of the Constitution by the limitation of the President's tenure of office to eight years and by the addition of a Bill of Rights. The necessity for any formal amendment to accomplish the first object was obviated by the example of Washington, who voluntarily retired from the Presidency at the end of his second term, thus creating a precedent which has been religiously observed ever since and has become an unwritten law having its sure foundation in the customs of the American people.

The first amendments provided for the proposed Bill of Rights, and this Bill of Rights received its proper complement by the adoption of the thirteenth amendment, which incorporated into the fundamental law of the land the provision respecting the prohibition of slavery or involuntary servitude which Jefferson had written with his own hand to become a part of the Ordinance of 1787, passed by Congress under the Articles of Confederation, for the government of the territory northwest of the Ohio River.

Respecting the taxing power of Congress under the new Constitution, Jefferson wrote from Paris under date of December 1, 1787, a letter to E. Carrington, in the course of which he said:

"As to the new Constitution, * * * I have written somewhat lengthily to Mr. Madison upon the subject and will take the liberty to refer you to that part of my letter to him. I will add one question to that I have said there. **Would it not have been better to assign to Congress exclusively the article of imposts for federal purposes and to have left direct taxation exclusively to the States?** I should suppose the former fund sufficient for all probable events, aided by the land office."

Jefferson afterwards yielded the suggested objections to the power in Congress to lay a direct tax, upon the view that such a power might be necessary in time of war when the whole resources of the country should be subject to the power of Congress. But even in this view of the matter the rule of apportionment of direct taxes has proven a very salutary restraint upon any unnecessary and improper use of the Federal power to lay direct taxes. There is no more effective way to degrade the States than to unnecessarily absorb their revenues into the Federal treasury. The uniform practice and policy of the Federal Government has been in consonance with the view of Jefferson that the ordinary exercise of the federal power of taxation should be by the duties, imposts and excises. Those who now propose to break down the federal Constitution and policy on this question are apostate to the republican faith of Thomas Jefferson, no matter how ardently they may profess to adhere to the school of politics which he founded.

Income Tax Unnecessary.

There is no necessity for a federal income tax. The normal operation of the customs tariff, in times of peace has always produced a surplus above the ordinary expenditures of the government. The revenues from this source grow in ever increasing ratio with the wealth and population of the country. Without the assistance of the excise, Albert Gallatin, the foremost administrative financier who ever occupied the portfolio of the Treasury, so appropriated the revenues to the public needs that the public debt was soon in course of speedy extinction. The purchase of Louisiana and the second war with Great Britain intervened, but a consistent adherence to his plans and policy by those who followed him in the treasury succeeded in the liquidation of the debt of the Revolutionary War, the purchase of Louisiana, the payment of the debt of the War of 1812 and enabled Levi Woodbury, Secretary of the Treasury, on December 8th, 1835, to report to Congress the "unprecedented spectacle presented to the world of a government virtually without any debts and without any direct taxation. The surplus revenues, about thirty-seven and a half millions of dollars, had by an act of Congress of the previous session, been distributed among the several states."

The administration of the treasury in the first term of the presidency of Grover Cleveland developed a great surplus in the treasury which the

President was unwilling to dissipate in wasteful schemes of expenditure. How much better would it have been to have distributed this, too, among the several States for the benefit of the common schools than to have left the same to be wasted in partisan extravangance.

Receipts and Expenditures.

Under the present administration, the Secretary of Treasury reports a reduction in expenditure in the executive departments to the amount of thirteen millions of dollars, and that the revenues for the last fiscal year (ending June 30th, 1910) show a surplus above the ordinary expenditures of the government to the amount of sixteen millions of dollars, exclusive of expenditures on the Panama Canal. Out of annual expenditures approximating 660 millions it requires less than one-third of this amount, or 201 millions, to pay the whole cost of the civil establishment of the government, includng interest on the public debt of over one thousand millions, exclusive of over three hundred millions of greenbacks outstanding.

The expenditures of the Treasury for the last fiscal year may be thus summarized:

Civil establishment, including all executive departments, legislative and judicial establishments and diplomatic and consular service	180 millions
Interest on the public debt	21 millions
Indian service	18 millions
Pensions	160 millions
Military establishment	156 millions
Naval establishment	123 millions

It is not improbable that a closer scrutiny by Congress over expenditures in the pension bureau and in the war and naval establishments, which now amount to 438 millions and absorb two-thirds of the ordinary expenditures of the government, would result in a saving commensurate with that accomplished in the civil establishment, and this without impairing the efficiency of these departments in the public service, all of which would increase the surplus to be covered into the sinking fund, which is now wholly neglected, or be judiciously expended in public works.

The revenues for the last fiscal year approximate 676 millions of dollars, with general sources as follows:

Customs	334 millions
Internal revenue, including corporation tax	290 millions
Public lands	6 millions
Miscellaneous	46 millions

The two great sources of revenue are the impost or duty on imports and the internal excise on distilled spirits and fermented liquors. There need be no diminution in the revenues from these sources.

Tax on Distilled Spirits.

The latter has by no means been exhausted as a source of revenue. There were produced in the United States in 1910 of distilled spirits, 156 million taxable gallons, an increase of 23 million taxable gallons over the year 1909. The revenue from distilled spirits in 1910 was 148 millions of dollars, which is an increase of 13 millions of dollars over 1909. The excise is $1.10 per gallon. The whiskey traffic ought to be given the limit of taxation, certainly all it will stand without diminishing the revenues. An increase in the tax to a dollar a quart would greatly increase the revenue,

unless it reduced consumption as much as 75 per cent. But then it would be a delectable condition to have the consumption of whiskey reduced from 156 millions to 40 millions of gallons without reducing the federal revenues. This would be in accord with sound public policy, and the federal government has all the machinery to enforce the law in every part of the country. The consumption has increased in spite of prohibitory state laws. Here is a rational remedy which is open to none of the objections generally urged against sumptuary laws. It would not intringe upon personal liberty. Any man could lawfully acquire the article, if he had the price. The place of whiskey as an article of commerce would be reduced to that of other drugs.

Jefferson, who had the greatest aversion to laws restrictive of personal liberty, denounced the consumption of "whiskey which kills one-third of our citizens and ruins their families." Approving an increase in the excise on whiskey, he said:

"The prostration of body and mind which the cheapness of this liquor is spreading through the mass of our citizens, now calls the attention of the legislator on a very different principle. One of his important duties is as guardian of those who from causes susceptible of precise definition, cannot take care of themselves. Such are infants, maniacs, gamblers, drunkards. The last as much as the maniac requires restrictive measures to save him from the fatal infatuation under which he is destroying his health, his morals, his family, and his usefulness to society. One powerful obstancle to his ruinous self-indulgence would be a price beyond his competence. As a sanitary measure it becomes one of duty in the public guardians."

Referring again to the excise of whiskey in a letter to Hugh Nelson, dated Monticello, April 2nd, 1812, Jefferson said:

"If the latter (the excise) could be collected from those who buy to sell again, so as to prevent domiciliary visits by the officers, I think it would be acceptable, and I am sure a wholesome tax."

The machinery for the collection of the excise has been perfected by long experience and is free from domiciliary vexations.

Fermented Liquors.

Of fermented liquors, beer, ale and porter, etc., there were produced in the United States in 1910, 60 million barrels, or one billion, eight hundred million gallons. The excise on fermented liquors is a dollar a barrel. The revenue from this source was 60 millions of dollars, an increase of 3 millions of dollars over 1909, when the production was 57 million barrels. Of course, the consumption of beer and ale is harmless as compared with that of whiskey and distilled spirits. The excise is merely nominal. It amounts to 3 1-3 cents a gallon. If this were increased to 5 cents per gallon, or a dollar and a half a barrel, it would augment the revenues of the government, on the present consumption of 60 million barrels, thirty millions of dollars. It is not to be expected that this slight increase would materially reduce consumption. The prohibition laws, however, are more effective in preventing the manufacture and consumption of beer than of whiskey, because of the greater bulk of the barrels and bottles in which fermented liquors are handled in commerce.

This liquor question is calling for national regulation, and the exercise of the federal taxing power is a much more sensible remedy than the schemes for interfering with interstate commerce which are being urged upon Congress. If a revision and equalization of the duties on imports should result in a diminution of revenue from that source, the excise on distilled spirits and fermented liquors may be raised to cover part or all of the deficiency.

Corporation Tax.

Then there is the tax on the net profits of corporations. These profits for the fiscal year ending June 30th, 1910, amounted to three billions, one hundred and twenty-five millions of dollars. Here is a source that ought to satisfy any federal income taxer. The tax yielded $26,872,270. If the exemption of $5,000.00 were repealed—and this exemption constitutes the most serious objection pressed against the tax—the excise of two per cent would have raised from this source sixty-two and a half millions of dollars. If the numerous trust companies, insurance corporations, and building associations which are now excepted from the excise, were included within its provisions, it would produce a tremendous increase in the revenues.

The principle of the corporation tax is supported by sound American precedents. As early as 1800, Jefferson observed in a letter to T. M. Randolph:

"A tax on public stock, bank stocks, etc., is to be proposed. This would bring 150 millions into contribution with the lands and levy a sensible proportion of the expense of the war on those who are so anxious to engage in it."

President Taft on Corporation Tax.

Speaking of the corporation tax provisions of the Payne Tariff Law, at Denver, Sept. 21st, 1909, President William H. Taft used these words:

"Under the conditions that existed with reference to the Constitution, it seems to me clear that the corporation tax is an equitable burden. It is a tax easily collected, one that no corporation can escape, one in which perjury cannot play any important part at all in an effort to escape it. * * *

"We have had very little experience with income taxes in this country, but those we have had have shown the inquisitional feature to be most harrassing, i. e., the power given to collectors of internal revenue and deputy collectors to look into a man's private affairs and to compel him to produce his private papers in order that his actual income may be ascertained. Moreover, the most objectionable feature of the tax is the premium upon perjury, which it offers to those who are willing to conceal their income—a matter not at all difficult to do—and who thus subject to a much heavier proportionate burden those who are conscientious in making their returns and who pay their tax as the law intended. * * * This is a practical argument in favor of the corporation income tax as against the individual income tax, and is altogether unanswerable. * * *

"Of course, it will be said by those who are opposed to the income tax that there will be a disposition to impose a direct income tax merely as a means of collecting ordinary income taxes in normal times and that no distinction can be made in the constitution by which the power to levy such a tax can be limited to times of emergency, because it is impossible to describe what the emergency should be. I agree with that, and I agree that there is a probability that at times the desire to tax accumulated wealth will lead to the movement in favor of a direct income tax, but I am also confident that its inquisitional character and the fact that in time the opportunity for perjury will show it to be so ineffective in reaching the persons whom it is sought to reach, by a proportionate, that it will be wise to adopt the course taken in England and other countries having great experience with such a tax, and to follow the course of our corporation tax rather than by direct personal imposition except in great emergencies."

Extension of the Excise.

The excise may further be extended widely into the field of manufacture and trade. It can be made to reach every article of personal property as the same is produced, manufactured, or consumed.

The principle of the corporation tax may be extended to the profits of the employment of capital by natural persons and associations of persons,

and the constitutional right of Congress to lay duties may levy a tax upon every transaction in personal property and the transfer and devolution of the title to lands.

The federal taxing power is plenary under the old Constitution. It is adequate for every need and is capable of expansion to every emergency of the federal government. The excises, imposts and duties produce an adequate revenue which flows in a steady stream in and out of the treasury to pay the current and ordinary expenses of the government as the same arise. If these two revenues in their aggregate annual amount of hundreds of millions were drawn from the channels of trade in a single annual payment by a direct annual tax, it would provoke a serious disturbance in the finances of the country.

Waste of Federal Revenues.

There is no need to change the general fiscal policy of the government as it relates to the collection of the revenues. It is in the field of appropriations and expenditures of the revenue that there lies the need of greater efficiency to prevent waste. Here is a good field for the "conservation of national resources." The prodigality manifested in expenditures of public funds has not been less flangrant than that manifested in the administration of the public domain. There have been altogether too many "pork-barrels" for sectional and partisan uses.

In 1854 Senator Stephen A. Douglass gave a characteristic description of a habit of malappropriation of which the present generation has not been without conspicuous examples:

"A legislative omnibus was formed in which all sorts of works were crowded together, good and bad, wise and foolish, national and local, all crammed into one bill and forced through Congress by the power of an organized majority after the fearful and exhausting struggle of a night session. * * * The result was a simple re-enactment of former scenes. Machinery, implements, and materials purchased, the works recommenced, the money exhausted, subsequent appropriations withheld and the operations suspended without completing the improvements or contributing materially to the safety of navigation. Indeed, it may well be questioned whether, as a general rule, the money has been wisely and economically applied, and in many cases whether the expenditure has been productive of any usful results beyond the mere distribution of so much money among contractors, laborers and superintendents in the favored localities; and in others whether it has not been of positive detriment to the navigating interest."

At that time Senator Douglass said that hundreds of millions had been sunk in the Mississippi River by just such methods.

Income Tax Delusion.

Some good people have thought that an increase of taxation and revenues to the annual amount of two hundred millions from a direct income tax would correct the tendency to extravagance and result in the ultimate reduction of taxation. This delusion is thus exposed by Raleigh C. Minor, Professor of Law in the University of Virginia:

"Heed not the siren voice. The spirit of extravagance grows by that it feeds on. It will never be curbed by the feeling of repletion. Its capacious maw constantly craves more. It holds tightly all it has once acquired and will never release a source of revenue once opened to it, unless forced by long and arduous struggle to disgorge. Let not the poor man flatter himself that his burdens will be decreased under this amendment, nor that the levy of such a tax will materially check the attainment of ill-gotten wealth. The dishonest men of fortune, on the contrary, will probably escape without much difficulty the burdens of the tax, leaving it to fall all the more heavily upon the honorable and the upright."

The cause of reform and correction will be best promoted by the more efficient administration of the appropriation of public moneys. There has been much improvement made by the present Secretary of the Treasury. The annually increasing deficit has been stopped and a surplus created which is being applied to the construction of the Panama Canal, thus eliminating in a certain measure the issuance of the bonds authorized by Congress for that purpose.

Motives of the Agitators.

There being no present national exigency which requires the laying of a direct tax on persons and property within the States, the States not having memorialized Congress that the proposed amendment be submitted, and the agitation for the amendment of the Constitution having been artificially fomented and it being altogether an ill-considered scheme, it may be well to inquire as to the reasons which move those who are really in favor of the amendment. These readily divide themselves into three classes:

1. Those who favor free trade and the abandonment of the whole tariff system.

2. Those who favor the use of the taxing power of the federal government not for revenue purposes but for the reduction of private wealth. This is an avowed part of the "New Nationalism."

3. Those who apprehend some terrible national exigency or crisis which will require the imposition of a direct tax, which can be done with more convenience if the provisions of the Constitution requiring apportionment be abolished.

Free Trade.

As to free trade, it is not a traditional American doctrine. It is more intimately connected with the name of John C. Cauhoun than with that of any other of our statesmen. The attempted nullification of the tariff laws by South Carolina, which was so sternly rebuked by Andrew Jackson, is an example of its impracticability in this country. The Democratic cry of "Free trade and sailors' rights," which was heard during the War of 1812 had no direct relation to the policy of laying duties upon imports, but was directed against piracy on the high seas, the impressment of American seamen, and the violation of neutral maritime commerce which had become so flagrant at that period.

The old controversy between tariff for revenue and tariff for protection has been worn threadbare and the distinction is of no practical importance. The tariff, being in its nature discriminatory against foreign goods, in favor of home manufactures, any tariff is necessarily protective in degree.

Of course, the tariff is a tax, and like any other necessary tax it ought to be revised and equalized and be adjusted to fall as lightly upon the necessities of life as may be. This work should be approached by the members of the political branch of the government with minds unprejudiced by partisan or sectional passions.

Jefferson had an open mind upon this question of protection. He said:

'How far it may be the interest and duty of all * * * to pay for a time an impost on the importation of certain articles, in order to encourage their manufacture at home or an excise on others injurious to the morals or health of the citizens will depend upon a series of considerations of another order and beyond the proper limits of this note."

In 1823, three years prior to his death, Jefferson wrote:

"I do not mean to say that it may not be for the general interest to foster certain infant manufactures, until they are strong enough to stand against foreign rivals."

Certainly Democrats ought to consider this question with minds as unprejudiced as that of the great politician whose doctrines they profess.

Commerce is a great agent of peace and civilization. It should be free from arbitrary restrictions, but it should bear its proportion of the public burdens. Army and navy, rivers and harbors, courts and consulates are in large measure maintained for its immediate security and protection. Those who follow commercial pursuits are among the most judicious and enlightened of our citizens. The laying of taxes on commerce should have the effect of directing their attention to the wise appropriation of public moneys and the limitation of taxation to the reasonable public needs.

Confiscation of Private Wealth.

As to the exercise of the taxing power for the reduction of private wealth, it is not a traditional American policy. The "New Nationalism" advocates a graduated income tax. Jefferson said: "Taxes on consumption like those on capital or income, to be just must be uniform." There is no principle more plainly written into American constitutional law than the inviolability of contractual obligations and vested property rights. To quote Jefferson again:

"Whether property alone, and the whole of what each citizen possesses, shall be subject to contribution, or only its surplus after satisfying his first wants, or whether the faculties of body and mind shall contribute also from their annual earnings, is a question to be decided. But, when decided, and the principle settled, it is to be equally and fairly applied to all. To take from one, because it is thought that his own industry and that of his fathers has acquired too much, in order to spare to others, or whose fathers have not exercised equal industry and skill, is to violate arbitrarily the first principle of association, 'the GUARANTEE to every one of a free exercise of his industry, and the fruits acquired by it.' If the overgrown wealth of an individual be deemed dangerous to the State, the best corrective is the law of equal inheritance to all in equal degree; and the better, as this enforces a law of nature, while extra taxation violates it."

Upon this question President William H. Taft said in the course of an address delivered at Denver on September 21, 1909:

"The proper authority to reduce the size of fortunes in the State rather than the central government. Let the State pass laws of inheritance which shall require the division of great fortunes between the children of the decedents and shall not permit a multi-millionaire to leave his fortune in trust, so as to keep it in a mass; make much more drastic the rule against perpetuities which obtains at common law, and then impose a heavy and graduated inheritance tax which shall enable the State to share largely in the proceeds of such accumulations of wealth, which could have hardly been brought about save through its protection and its aid. In this way gradually but effectively the concentration of wealth in one hand or a few hands will be neutralized, and the danger to the republic which has been anticipated by a continuation through generations for such accumulating fortunes will be obviated."

Unfounded Apprehensions.

As to the aggrandizement of the powers of federal government in anticipation of some national exigency, it is not a traditional American policy. The American people are in favor of the full and efficient exercise of the constitutional powers of the federal government, but they are also attached to what Hamilton called the "residuary sovereignty of the States." They will not have the **"United States of America"** become the **"Republique Americaine."** No plan for the reduction of this residuary sovereignty and the centralization of power in the federal government has ever been proposed which has the potentiality of the amendment to repeal the Constitutional provisions which require the apportionment of direct taxes among the States according to the enumeration of the federal census.

As to the exigency of war—the country will never again encounter a crisis equal to that of 1861, when its foreign commerce became destroyed and its revenue laws subjected to de facto suspension in the Confederate States.

The soundest policy is to use the surplus revenues of peace to pay the debt of war and thus keep the public credit unimpaired for any eventuality of war. Under the foreign policy inaugurated by Washington, no foreign country has ever had just cause for war against the United States. Our people may be proud of the contributions of American diplomacy to international peace and justice, and may look forward to the day when civilization shall prevent the unlawful use of force between nations as effectually as it has violence between man and man. Our country has a security in the affections and loyalty of its free citizens which cannot be strengthened by any changes in the Constitution.

It was never truer than it is today "that no free government or the blessing of liberty can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles."

LIMITATIONS OF THE INCOME TAX.

As it relates to taxes on property (excluding the profits of business and the wages of labor) the essential difference between the property tax and the income tax is that in the first the property is assessed on a capital or ad valorem basis and in the latter the owner of the property is taxed on the basis of his income from the property. Both are methods of direct taxation. The capital tax in a direct way reaches the income of the property and the capitation tax according to the income in a direct way reaches the income of the property.

The income tax is derived from the old English poll taxes. The American system is to tax property rather than persons. As to how far the natural equities of the principal of income taxation may be applied to direct taxes is a proper subject of inquiry. What is said here has no application to taxes on consumable commodities, which are taxes on expense and thus indirect taxes on income.

The equitable principle of laying taxes upon subjects according to their revenue or income is thus stated by Adam Smith:

"The subjects of every state ought to contribute towards the support of the government as nearly as possible, in proportion to the revenue which they respectively enjoy under the protection of the state."

Now there are certain limitations which, in America, arise from the nature of the federal government of the United States and the general division of revenue between the states and the United States upon the line indicated by the terms direct and indirect taxes. These, as well as the American objection to capitation taxes, must always be borne in mind in considering the English precedents.

It is believed that the general sources of income in this country may be divided into four classes, and the limitations of application of the income tax determined as to each.

1. Rent and issues of real estate, including rent of houses, ground rents, and issues and produce of farms.

2. Gains and profits of capital, including the dividends of all corporations, firms and licensed traders engaged in commerce, transportation, manufacture, fabrication, merchandising, banking, insurance, and other business pursuits employing capital stock (exclusive of agriculture.)

3. Interest on loans, including securities, bonds, mortgages, debentures, notes and other evidences of indebtedness, unsecured debts and money.

4. Wages of labor and earnings of personal and professional service of all kinds and salaries of offices.

1.

LAND TAXES.

As to taxes on land and the rents and issues of the same, it is better to lay these on a capital rather than an income basis because it is desired not only to tax the actual rents and issues but to tax the potential revenues of land, for it is unjust that one who owns vacant and unpro-

ductive property of great value, especially in cities, should escape proper taxation because he fails to improve or use his land.

It is generally conceded, however, that the arbitrary method of valuation practiced by assessors in fixing the "market" value of lands and improvements results in gross inequalities and injustice in land assessments, the first requisites of which are equality and uniformity. It is quite imperative that some rule be devised which shall displace the arbitrary opinions and estimates of assessors. Such a rule could be developed upon the principle of capitalizing the revenue actual and potential of lands to determine the valuation for assessment of direct taxes.

The annual rental value of agricultural and grazing lands may be approximately ascertained in any given locality. The rent of houses and improvements is also susceptible of approximate ascertainment. The rents of buildings, especially in cities, may be divided into house rents and ground rents. The actual value of the building may be ascertained and after allowing, say 5 per cent, on this value for the house rent, the remainder represents the ground rent. These ground rents may be taken as indicating the ground rents for vacant property similarly situated. This would seem to be the limit of the proper application of the principle of income taxation to lands, houses and improvements.

The same principles apply to factory sites and ground occupied by any other structures. Experience could develop this system into an equitable method of assessment to take the place of the present antiquated and unjust system.

Revenues from lands including ground rents could go to the state and revenues from city houses to municipalities which afford fire and police protection for such improvements. It might be good policy to exempt the houses and improvements on farms from state taxation, for the encouragement of agriculture, and the wider distribution of the people, leaving such improvements to be taxed for county and local government when the necessity for the organization of new towns and municipalities may arise.

The rule of apportionment makes it inconvenient for the federal government to assess lands and rents in the states. It is admitted by all that such taxes are direct taxes,—and it was decided by the Supreme Court in the Pollock case that when such rents are taxed by a direct imposition on the owner of the same based upon his income from all sources, that this tax is a direct tax on the land. Lands now generally sustain nearly the whole burden of taxation for state and municipal purposes. They must continue to do so. We may as well abandon local government and the functions of the states, if Congress is to invade the field of direct taxation of lands, under the guise of an income tax or otherwise, and thus divert into the federal treasury moneys which should rather be used for the support of state police, judiciary, sanitation, education, municipal and internal improvements which are so necessary to the health, welfare and security of the people. The capital or ad valorem tax on land will not be abanandoned and to lay an additional tax on the revenue of lands is a double burden upon the freeholders who constitute the most sturdy and loyal supporters of organized society

II.

PROFITS OF BUSINESS.

The tax on the dividends of corporations and associations of persons employing a capital stock is not a direct tax on property as such, and is not a direct tax on persons, but it is a tax on the gains and profits of business. The federal government has power to lay such a tax without apportionment and it is believed that this tax is capable with the stamp duties of reaching all the productive wealth of the country excepting only the rents and issues of land and the wages of labor—the indirect federal taxes, however, fall on these in common with all sources of revenue.

The levy of an annual capital tax by arbitrary valuation on business concerns is a very irrational method of assessment. The same is true of an annual capital tax on personal chattels which (with the exception of live cattle and investments) produce no income except such as is incorporated in the profits of capital employed in handling such property in trade, manufacturing, merchandising and other forms of commerce. Commodities for consumption of which the great mass of such property is constituted, are in large measure, produced and consumed in the interval between one annual assessment and the next. The amount of capital employed and the losses or profits incident to change in the markets vary from month to month. These irregularities are accentuated by exactions fixed according to arbitrary valuation without the application of any principle which the corporation or firm employing capital may calculate as a certain factor in the ousiness.

These industrial and commercial establishments are organized for profit. They necessarily keep books of account by which these profits are ascertained and such organizations with a minimum of inconvenience and without the inquisitions which are so intorerable to natural persons, can make the returns which are required by law for the imposition of the annual tax on their profits. These establishments, especially when incorporated by law, enjoy special privileges and immunities which properly subject him to the visitorial power of the state and from which visitations and inquisitions natural persons on grounds of sound policy in any free country should be exempt.

A tax on profits or income is therefore the ideal method of taxation for corporations and mercantile and commercial establishments employing capital stock in trade for profit. There is no other way to fairly and effectively reach the profits of such pursuits and no way to tax the stock of such concerns so justly as by a tax on the profits it produces. Such a tax is the federal corporation tax which is the beginning of a sound federal policy to subordinate these corporations to the public good. If the policy be continued as it ought we will have the federal taxing power, exercised primarily for revenue and incidentally for the encouragement of home manufactures, the regulation and diminuation of the consumption of alcoholic beverages, and the regulation and visitation of corporations, all of which subjects require the supervision of the federal government because of their international and interstate character.

The corporation tax is a tax on the investments of the stockholders paid by the corporation directly, and thus saves the stockholders from inquisition into their private income and affairs.

The capital stock of corporations organized for profit and doing business in the United States according to the returns made last year to the commissioner of internal revenue amounted to $52,371,626,752. The bonded and other debt of such corporations aggregated $31,333,952,696. This debt is essentially a part of the capital employed by the corporations, the bonds

representing actual capital whereas the stock is in too many instances composed partly of water. The only difference between interest to the bond holders and dividends to the stockholders is that the interest is preferred in payment to the dividends; thus becoming essentially preferred stock in the capital of the corporation.

The net revenue of such corporations for the last year was $3,125,480,000. Annual interest on the debt at 4 per cent (the actual figures are not at hand) would have aggregated $1,253,358,000, and the total profits of capital in corporations divided between interest and dividends amounts to $4,378,828,000. In any rational tax on the profits of capital employed by corporations or others, interest on bonds or debt representing borrowed capital should be excluded from the deduction from gross revenues and included within the net profits for taxation. It is not to be doubted that Congress may levy the same tax on the profits of borrowed capital as upon capital stock denominated as such. And there is no greater objection to having the payment of interest preferred to the payment of dividends on the stock, than there is to the preference accorded to preferred stock over common stock in the payment of dividends.

If the $5000.00 exemption were repealed, and there is utterly no reason why it should apply to corporations, a tax of 2 per cent on these profits, including interest on the debt, would have yielded over eighty-seven and a half millions of dollars for the last fiscal year. The tax of 2 per cent on a revenue of 5 per cent on the capital is only a tax of 1-10 of 1 per cent, or 1 mill on the dollar of the capital actually employed by such corporations.

The government has not exercised its visitorial power to ascertain that the returns made by corporations are correct. It is likely these net profits could be increased by scrutinizing the deductions from gross revenues which determine the net revenue.

The income tax is certainly the most efficient and satisfactory means of taxing capital stock employed in business. It would be sound policy if such business organizations could be exempted from all other taxes excepting taxes on their lands, improvements and plants and such municipal licenses and franchise taxes as local policy shall require.

The business of corporations has become so extensive that it knows no state lines and the attempt of the states to tax it has frequently been held invalid by the courts as an interference with interstate commerce. Controversies are frequently arising as to how far the states may tax the property and stock of such corporations. We have now the beginning of a great federal policy looking to the visitation and control of corporations by the constitutional exercise of the federal taxing power. The federal government collects the returns and statistics which may form the basis of both a federal and state tax on the profits of corporations. Why should not the states and the federal government co-operate in this important work of the taxing of the great wealth of these corporate organizations for both state and federal revenues? The federal government has all the machinery for assessment and collection. Its operations are as wide as the republic, and there can be no escape from its visitations. Why not have it collect all the revenue from this source and divide one-half to the states making the distribution according to population? This would free the corporations from local and special vexations in taxation and subject their great power for the production of wealth by an equitible levy to the burdens of government. Here would be the perfection of income taxation without personal

inquisition and exactions and without breaking down the structure of the constitution by ill-advised and impolitic amendments.

It is believed that this represents the proper limits of application for the principal of income taxation, under American law and policy—the capitalization of rents for the assessments of land and a tax on the net profits of bnsiness employing a capital stock.

III.

INTEREST ON LOANS.

The question of taxing money as such must be approached with great caution. Capital is timid. It is easily withdrawn from commerce with immediate consequences of distress to the people. Its greatest efficiency for the public good is attained when it circulates freely to facilitate exchange and activity in business. Certainly money as such, ought not to be subjected to an annual capital tax. If it is to be taxed at all it is best to tax transactions in which it passes—a tax on the clearances through the banks would be an effective way of drawing revenue from such transactions —but such a tax would be a hindrance to business and trade and open to objections for that reason. Then the clearances through the banks are so intimately connected with the operations of business and capital, the profits of which are subjected to the income tax, that a tax on bank clearances would simply result in a diminuation of the profits of business otherwise taxed, and the net result might be an actual diminution in the tax on profits in excess of the amount raised by the tax on bank clearings. Then the profits of banks and firms engaged in the loan of money would be included in the tax on the profits of corporations and business. The business of loaning money pursued by a natural person or association of persons should be taxed according to the net profits the same as corporation profits are taxed.

As to taxation of debts, evidenced by bonds, mortgages, debentures, notes, evidences of indebtedness, etc., the universal experience seems to be that any tax on these simply has the effect of of raising the interest rate with consequent impairment of the borrowing capacity of business corporations and hindrance of commerce.

Some states have constitutional provisions which prohibit the taxation of mortgages for the reason that such taxes simply increase the interest rate and drive capital out of the state. (This, however, is a matter of state policy. There is a great difference between taxing mortgages yielding 5 per cent by a levy of 2 per cent on the interest which only amounts to 1-10 of 1 per cent on the capital and assessing such mortgages at their full capital value and laying state, county, city and school taxes at an aggregate rate of 40 mills which amounts to a practical confiscation of the interest.)

The debt of the United States, amounting to a thousand millions of dollars, is by law exempt from taxation. The debt of state and municipal governments, including public school corporations, is of huge proportions. (It is thought to approximate 2000 millions. It was reported in 1906 at 1865 millions in excess of sinking fund assets.) The bonds representing this state and munipical debt and interest on the same, under one of the great constitutional decisions of Chief Justice John Marshall are exempt from federal taxation. "The power to tax is the power to destroy." Congress may not use the taxing power to impair the public credit or borrowing

capacity of the states. But the income tax law of 1894 made no exception of the interest of municipal bonds and securities, and this was one reason why the law was declared to be unconstitutional by the decision in the Pollock case. The proposed amendment to the constitution by which it is directly intended to repudiate the decision in this case, authorizes Congress to lay direct "taxes on incomes from whatever source derived," thus disregarding the exceptions as to state bonds laid down by Chief Justice Marshall and applied in the Pollock case. For this reason Governor Hughes, in a message to the legislature of New York, recommended the rejection of the amendment and said:

"To place the borrowing capacity of the state and of its governmental agencies at the mercy of the federal taxing power would be an impairment of the essential rights of the state, which, as its officers, we are bound to defend.

"In order that a market may be provided for state bonds, and for municipal bonds, and that thus means may be afforded for state aud local administration, such securities from time to time are excepted from taxation. In this way lower rates of interest are paid than otherwise would be possible. To permit such securities to be the subject of federal taxation is to place such limitations upon the borrowing power of the state as to make the performance of the functions of local government a matter of federal grace."

The bonded and other indebtedness of corporations in the United States is thirty-one and one-third billions of dollars. It would be interesting to know how much of this is held by the mutual insurance companies, trust companies and building associations which were exempted from the income tax law of 1894, and from the present corporation tax.

It may be admitted that an income tax would reach some of the interest of debts if returns were honestly made—but this is the fertile field for perjury in the operation of the income tax. And is it any wonder that persons who have a little savings or money which they have accumulated by the struggle of years resent the inquisitions of the government when they know that deposits in postal savings banks, government bonds, state bonds, municipal bonds, school bonds, mortgages securing state funds, national bank notes, investments by mutual insurance companies, trustees and building associations in railroad and industrial bonds and real mortgages are all exempt? Why make fish of one and fowl of another and tempt the citizen to commit perjury in order to secure exemptions accorded by law to more wealthy and favored investors? It seems that sound policy should not place the railroads and other public service corporations which are performing important public functions, upon any less favorable position in the money market than other public borrowers. The tax on the profits of the business of loaning money will fall on the dividends of banks and every person engaged in this business, and there is no need to carry this inquisition to private citizens. Their investments in corporate stocks and in corporate bonds, it is believed, may be reached by the tax on corporation profits, which need not exclude interest as under the present law. Such bonds have the same privileges of corporate investment as corporate stock and there is no reason why the profits such capital produces should be differentiated from that produced by stock denominated as such.

But if transactions in money creating indebtedness are to be taxed, it is not necessary to erect a federal inquisition into personal and private

affairs to accomplish this. The government may readily lay a stamp duty upon all such transactions—and really the only reasonable way to tax money as such is to tax transactions in the same. Men don't keep money in annual stated amounts like other property, and the annual income tax presumes that they do. (However, in England a large number of the population do live from stated incomes, produced by investments of various kinds, which is not true of this country.)

Now the 2 per cent tax on the income of 5 per cent bonds would amount to 10 cents per annum on the hundred dollars. It is a simple matter for the government to require the use of stamped paper for the execution of evidences of indebtedness. The stamp duty on such paper could be made 10 cents for each hundred dollars and for each year of the obligation represented in the bond, debenture, note or other evidence of indebtedness, and a requirement that such contracts be executed upon such stamped paper would forestall any evasion of the stamp duty. But such a tax on the short time promissory notes taken by banks would be a double tax, if their profits are otherwise taxed. And then such taxes are burdens on the free circulation of money with consequent restraint of trade and activity of capital, all of which it is the duty of the government to promote and protect.

IV.

WAGES OF LABOR.

As to the income tax on wages of labor it was the intention of the law of 1894 that these be exempt. For this purpose the exception of $4000.00 was made. There is a $5000.00 exemption clause in the present corporation law, but there is utterly no reason why such exemption should be made in the case of corporations and business establishments which work for profit and not that they may live as natural persons.

It may be admitted that a tax on incomes would reach directly every man's earnings from his labor or personal service and that there would be less of perjury here than with respect to the interest on personal savings. Adam Smith said that such poll taxes were a direct tax on the wages of labor. The same is true of the income from occupations and professions. Give the laborer his wage and give every other man his wage who strives with brain and brawn to do his work in the world. We don't want any federal poll taxes in this free country, whether each man be rated according to his income or otherwise. Neither for laborers, nor clerks, lawyers, doctors, preachers, artists, judges, managers, superintendents nor congressmen.

There is a direct relation between the standard of wages and the standard of living. Men in all walks of life live up to their income from personal service. The poor man pays his taxes when he buys his beer and tobacco—he can pay or not, just as he pleases. The personal earnings of all classes bear indirect taxes imposed by licenses, excises and imposts and this money is incorporated in the profits of merchants and the rent of houses otherwise taxed.

After paying the cost of living the surplus of personal earnings, if any, is invested in property which forthwith becomes subject to direct capital or income taxes as the case may be. The supporters of the "Ossawatamie" platform say "the graduated income tax will have to be accepted if the experience of other conservative countries proves anything." Let us away with these exotic schemes and with steadfast devotion to the prin-

ciples of American liberty, exclude from our shores the intolerable extortions and inquisitions which are the curse of "conservative" countries across the sea.

INHERITANCE TAXES.

Congress has power under the constitution to law death duties or inheritance taxes on successions in the title to property. The income tax law of 1894 contained such a provision—and the last tariff law as it passed the House of Representatives provided for inheritance taxes. About one-half the states in the Union have memorialized Congress not to tax inheritances, but to leave this source of revenue to the states. If the constitution be amended so as to permit the imposing of a direct income tax upon all persons in the United States any such law if enacted is sure to include the income from inheritances, which is an inherent part of the English scheme which it is persistently sought to introduce into our federal practice and policy of taxation.

The inheritance tax does not impair the obligation of contracts nor violate vested rights. When a right of property once becomes invested in any person, the constitution denies the right of government to deprive a person of that right without due process of law. These vested rights are not effected by laws which regulate their devolution from the dead to the living. If duties on succession are to be imposed there are no sound objections to making them progressive with the amount to pass by inheritance or discriminating against collateral relatives in imposing the tax.

But nevertheless the conventional right of a man to transmit his property to his children has strong support in the human affections and in original patriarchal institutions. It is a great incentive to industry and the perpetuity of family life which is the one great support of organized society. It is claimed by some, that the protection of the right of inheritance is one of the first duties of society. There are sound reasons to support this view. But if there is one thing that one generation owes the next, it is the training and education of youth to increase its capacity for self maintenance and equal exercise of the opportunities under the law. The support of public education is admitted to be one of the prime duties of the state. It entails heavy burdens of taxation. The proportion of state revenues expended for education is not less than the proportion of federal revenues expended in preparation for national defense. It is particlarly appropriate that moneys raised by inheritance duties should constitute a fund for the support of the common schools, and if this practice were adopted, the tax might be collected with less difficulty of evasion and resistance. The creation of such a fund would be an inducement to contributions by voluntary donations, bequests and devises. It is higher policy to divert private benefactions to the support of public education than to encourage the diffusion of such gifts among private institutions.

TAXES ON PERSONAL PROPERTY.

An annual tax on personal chattels on a capital valuation or income basis is anomalous for the reason that such property (excluding live cattle and investments) produces no income or increase. Such articles are purchased for consumption or utility and represent expense and not income, and people naturally resent the intrusions of assessors into their homes to tax their expense.

Such chattels as are not at once consumed in the ordinary course deteriorate from day to day, both as to their value and utility. The profits

of handling articles of consumption and utility in the transactions of merchants and manufacturers, are best taxed by a tax on the profits of business or municipal licenses as the case may be. A large part of such profits go into the permanent improvement of land and such improvements are assessed for land taxes. Household furniture may best be considered as increasing the rentals of houses, etc., and be incorporated in the tax on improvements. The profits of carriages, vehicles, etc., as part of the capital used in trade by livery keepers, merchants or others, are taxed in an income tax on the profits of such business.

A specific tax upon autmobiles, trucks, wagons and carriages laid according to their weight or estimated wear on the public roads would be a good tax to be covered in a fund for the maintenance of public roads.

Taxes on live cattle, including horses, kine, sheep and hogs, would best be laid as a specific tax, at a certain annual sum per head. A uniform tax would promote the improvement of live stock and would not lay discriminating duties on those who devote their time and money to this beneficial work, often without commensurate compensation except the satisfaction of having done beneficient public service.

TAXES ON PROFESSIONS AND OCCUPATIONS.

Income taxes may be laid on the income from particular professions and occupations. This, however, ought not to be done by Congress, but by the states in cases of particular local exigency. A poll tax on each person according to his income from personal labor, art, or skill would be more equitable than to discriminate against certain professions. The federal government has constitutional power to tax employments and professions as such, but not to lay a general capitation tax without apportionment among the states.

REFORM OF STATE REVENUE LAWS.

It is generally conceded that there is great need of reform in state revenue laws. Any progress along these lines is sure to be impeded and the work of correction embarrassed and rendered difficult by any amendment of the federal constitution respecting the taxing power of Congress. Many states have appointed commissions to investigate the subjects of state taxation and contrive a more equitable and efficient system.

PROVISIONS OF THE INCOME TAX LAW OF 1894 HELD UNCONSTITUTIONAL BY THE SUPREME COURT IN THE POLLOCK CASE.

See the opinion of Chief Justice Fuller in the rehearing of this case in 158 United States Reports, page 617.

By sections 27 to 37 inclusive of the act of Congress entitled "an Act to reduce taxation, to provide revenues for the government, and for other purposes," received by the President August 15, 1894, and which, not having been returned by him to the House in which it originated within the time prescribed by the constitution of the United States, became a law without approval, (28 State. 509, c. 349,) it was provided that from and after January 1, 1895, and until January 1, 1900, " there shall be assessed, levied, collected, and paid annually upon the gains, profits and income received in the preceding calendar year by every citizen of the United States, whether residing at home or abroad, and every person residing therein, whether said gains, profits, or income be derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United Staes or elsewhere, or from any other source whatever, a tax of two per centum on the amount so derived over and above four thousand dollars, and a like tax shall be levied, collected, and paid annually upon the gains, profits and income from all property owned and of every business, trade, or profession carried on in the United States by persons residing within the United States." . . . .

"Sec. 28. That in estimating the gains, profits, and income of any person there shall be included all income derived from interest upon notes, principal and interest of which are by law of their issuance exempt from all federal taxation;; profits realized within the year from sales of real estate purchased within two years previous to the close of the year for which income is estimated; interest received or accrued upon all notes, paid or not, if good and collectible, less the interest which has become due from said persons or which has been paid by him during the year; the amount of premium on bonds, notes, or coupons; the amount of sales of live stock, sugar, cotton, wool, butter, cheese, pork, beef, mutton, or other meats, hay, and grain, or other vegetable or other productions, being the gorth or produce of the estate of such person, less the amount expended in the purchase, or production of said stock or produce, and not including any part thereof consumed directly by the family; money and the value of all personal property acquired by gift or inheritance; all other gains, profits and income derived from any source whatever except that portion of the salary, compensation, or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, from which the tax has been deducted, and except that portion of any salary upon which the employer is required by law to withhold, and does withhold the tax and pays the same to the officer authorized to receive it. In computing incomes the necessary expenses actually incurred in carrying on any business, occupation, or profession shall be deducted and also all interest due or paid within the year by such person on existing indebtedness. And all national, state, county, school, and municipal taxes, not including those assessed against local benefits, paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor; also losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and debts ascertained to be worthless, but excluding all estimated depreciation of values and losses within the year on sales of real estate purchased within two years previous to the year for which income is estimated; Provided, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; Provided further, That only one deduction of four thousand dollars shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or wards are comprised in one family, and have joint property interests, the aggregate deduction in their favor shall not exceed four thousand dollars;

And provided further, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of four thousand dollars per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, and shall include that portion of any income or salary upon which a taxe has not been paid by the employer, where the employer is required by law to pay on the excess over four thousand dollars: Provided, also, That in computing the income of any person, corporation, company, or association there shall not be included the amount received from any corporation, company, or association as dividends upon the stock of such corporations, company, or association if the tax of two per centum has been paid upon its net profits by said corporation, company, or association as required by this act.

"Sec. 29. That it shall be the duty of all persons of lawful age having an income of more than three thousand five hundred dollars for the taxable year, computed on the basis herein prescribed, to make and render a list or return, on or before the day provided by law, in such form and manner as may be directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the collector or a deputy collector of the district in which they reside, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, executors, administrators, agents, receivers, and all persons or corporations acting in any fiduciary capacity, shall make and render a list or return as aforesaid, to the collector or a deputy collector of the district in which such person or corporation acting in a fiduciary capacity resides or does business, of the amount of income, gains, and profits of any minor or person for whom they act, but persons having less than three thousand five hundred dollars income are not required to make such report; and the collector or deputy collector shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated; and in case any such person having a taxable income shall neglect or refuse to make and render such list and return, or shall render a wilfully false or fraudulent list or return, it shall be the duty of the collector or deputy collector, to make such list, according to the best information he can obtain, by the examination of such person, or any other evidence, and to add fifty per centum as a penalty to the amount of the tax due on such list in all cases of wilful neglect or refusal to make and render a list or return; and in all cases of a wilfully false or fraudulent list or return having been rendered to add one hundred per centum as a penalty to the amount of tax ascertained to be due, the tax and the additionas thereto as a penalty to be assessed and collected in the manner provided for in other cases of wilful neglect or refusal to render a list or return, or of rendering a false or fraudulent return." A proviso was added that any person or corporation might show that he or its ward had no taxable income, or that the same had been paid elsewhere, and the collector might exempt from the tax for that year. "Any person or company, corporation, or association, feeling aggrieved by the decision of the deputy collector, in such cases may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If dissatisfied with the decision of the collector such person or corporation, company, or association may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish the testimony of witnesses to prove any relevant facts having served notice to that effect upon the Commissioner of Internal Revenue, as herein prescribed." Provision was made for notice of time and place for taking testimony on both sides, and that no penalty should be assessed until after notice.

By section 30 the taxes on incomes were made payable on or before July 1 of each year, and five per cent levied on taxes unpaid, and interest.

(The provisions respecting the gains and profits of corporations were re-enacted and form part of the present corporation tax law.)

END OF
TITLE